

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

ASSEFA GABREL EGZIABHER, JR.

PLAINTIFF

v.

Civil No. 5:20-cv-05006

OFFICER CASH NUCKOLLS, Fayetteville Police
Department (FPD); OFFICER CHRIS CLARDY,
FPD; OFFICER CHASE HARRIS, FPD; OFFICER
CHRIS SCHERREY, FPD; and
OFFICER MATTHEW BELK, FPD

DEFENDANTS

OPINION AND ORDER

This is a civil rights action filed by the Plaintiff pursuant to 42 U.S.C. § 1983. He proceeds *pro se* and *in forma pauperis*.

On September 3, 2020, Defendants filed a Motion to Stay and for Sanctions (ECF No. 25). The Court stayed (ECF No. 26) the deadlines set forth in the Initial Scheduling Order (ECF No. 24). Defendants sought sanctions pursuant to Rule 37(d) of the Federal Rules of Civil Procedure based on Plaintiff's failure to appear for his deposition. As a result of Plaintiff's non-appearance, Defendants' counsel incurred costs for the court reporter's appearance fee and transcript in the amount of \$356.00. Plaintiff was directed to respond to the Motion for Sanctions by September 23, 2020. Plaintiff failed to file a response.

On September 28, 2020, Defendants' Motion for Sanctions was granted. (ECF No. 27). Plaintiff was directed to pay the amount of \$356.00 to Defendants' counsel by no later than October 28, 2020. *Id.* Plaintiff was advised that failure to pay the sanctions would result in the

dismissal of this case. If Plaintiff failed to pay the sanctions, Defendants were directed to so notify the Court. *Id.*

On October 30, 2020, Defendants filed a notice (ECF No. 28) stating that no payment had been made by the Plaintiff. This case is **DISMISSED WITHOUT PREJUDICE**. Upon payment in full of the sanctions and proof that he has allowed his deposition to be taken, Plaintiff may file a motion to reopen this case.

IT IS SO ORDERED this 2nd day of November 2020.

/s/ P. K. Holmes, III

P. K. HOLMES, III
U.S. DISTRICT JUDGE